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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,724	01/29/2001	Alexander I. Wallstein	27855/36740	7688

4743 7590 12/05/2003

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EXAMINER
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DORSEY, DENNIS

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 12/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/771,724

Applicant(s)

WALLSTEIN, ALEXANDER I.

Examiner

Dennis L Dorsey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 1-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 19, 22, 32, 34 and 36-50 is/are allowed.
- 6) ☒ Claim(s) 12-18, 20, 21, 23-31, 33, 35 and 51-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 26, 2003 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12-16, 17-18, 20-21, 23-29, 30-31, 33, 35, 51-52, and 54-55 are rejected under 35 U.S.C. 102(b) as being anticipated by Sorkin Patent Number 5,749,185.

Sorkin '185 teaches all the limitations of the above claims including an intermediate anchor (14), backside (42), frontside (40), cover (86, 48, 44), wedge hole (80), backside seal (78), frontside seal (82), backside adaptor (44), backside o-ring (78) is sealing engagement with tendon and adaptor, bushing (42) biasing adaptor (44), frontside cap (48), and frontside o-ring (82) sufficiently larger than outside of sheath (76) during installation.

4. Claims 51-53 are rejected under 35 U.S.C. 102(b) as being anticipated by Reigstad et al. Patent Number 4,799,307.

Reigstad '307 teaches all the limitations of the above claims including an intermediate anchor (20), o-ring (130) sufficiently larger than outside of sheath, internally threaded bushing (42), and externally threaded adaptor (94).

***Response to Arguments***

5. Applicant's arguments filed September 26, 2003 have been fully considered but they are not persuasive. The Applicant argues that the Sorkin '185 reference does not teach the exposed portion of the tendon being confined to the cover. The Examiner disagrees. In the above rejection the Examiner takes the position that the cover is defined by the reference numbers "86", "48", and "44". The Examiner interprets the split tubular members (44, 48) to be part of the cover. Thus the exposed portion is confined to the cover. No modification of the reference is needed or suggested at this time. The Examiner considers this interpretation of the cover to be reasonable and to anticipate all the structural limitations set forth in the claims. The examiner maintains that the claims are to final product and the Sorkin '185 reference provides for the o-rings to be "sufficiently larger than the outside diameter of the sheath" or else the o-rings would not fit around the sheathed tendon.

***Allowable Subject Matter***

6. Claims 1-11, 19, 22, 32, 34, and 36-50 are allowed.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis L Dorsey whose telephone number is 703-306-9137. The examiner can normally be reached on Monday-Friday 9:00 am-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

DLD 

LANNA MAI  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

